

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

Crl.Rev.Pet.No. 1237 of 2001()

CRA.137/1996 of ADDL.SESIONS COURT, KOTTAYAM
CC.213/1994 of JUDL. MAGISTRATE OF FIRST CLASS, ERATTUPETTA
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REVN. PETITIONER:

SEBASTIAN,S/O.SCARIA,
EDIPPARA VEEDU,
PATHAZHA BHAGAM,
KONDOOR KARA,
ERATTUPETTA-2.

BY ADV. SRI.SHAJI THOMAS PORKKATTIL

RESPONDENTS:

1. STATE REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.
2. CIRCLE INSPECTOR OF POLICE,
ERATTUPETTA.

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 13/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

ORDER ON CRL.M.P.NO.6034/2001 IN CRL.R.P.NO.1237/2001

DISMISSED.

SD/- K.R.UDAYABHANU, JUDGE

13/11/2007

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K.R.UDAYABHANU, J.

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Crl. R.P.No.1237 of 2001-A
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Dated this the 13th day of November, 2007

O R D E R

The revision petitioner is the accused in C.C.No.213/1994 in the file of the Judicial Magistrate of the First Class, Erattupetta, who stands convicted for the offences under Sections 279 and 304A I.P.C and sentenced to undergo simple imprisonment for six months and to pay a fine of Rs.1,000/- and in default to undergo simple imprisonment for three months.

2. The prosecution case is that on 22/01/1994 at about 9 p.m., the accused drove stage carriage bus bearing Reg.No.KL5/A.2739 in a rash and negligent manner so as to endanger human life through Erattupetta public road and hit on a pedestrian, who died subsequently on 26/01/1994.

3. The evidence adduced in the matter consisted of the testimony of PWs.1 to 13 and Exts.P1 to P10.

4. The counsel for the revision petitioner has stressed the fact that there is no specific evidence as to the identity of the accused. PW.2 who

has supported the prosecution has stated that the accused ran away and that he had a view of the accused at a distance of 20 feet but PW.3 who also supported the prosecution has stated that the accused came along with PWs.1 to 3 to the hospital along with the injured, and further, in the trip sheet produced the name of the driver is mentioned as P.J.Baby, whereas, the accused is Sebastian, S/o.Scaria. The above contradictions in the prosecution version, I find, is sufficiently serious, which entitle the accused for benefit of doubt. The above point was not considered by the lower appellate court. In the circumstances, the conviction and sentence imposed on the revision petitioner is set aside. The revision petitioner/accused is acquitted. The criminal revision petition is allowed.

**K.R.UDAYABHANU,
Judge**

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